

B104 (FORM 104) (08/07)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS Kevin Campbell, Trustee		DEFENDANTS United States of America
ATTORNEYS (Firm Name, Address, and Telephone No.) Campbell Law Firm, P.A. P.O. Box 684, Mt. Pleasant, SC 29465		ATTORNEYS (If Known)
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input checked="" type="checkbox"/> Trustee		PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Turnover of property of the Estate pursuant to 11 U.S.C. §542		
NATURE OF SUIT		
(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
FRBP 7001(1) – Recovery of Money/Property <input checked="" type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other		
FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property		
FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)		
FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)		
FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation		
FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column)		
FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other		
FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other		
FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest		
FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment		
FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause		
Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)		
<input type="checkbox"/> Check if this case involves a substantive issue of state law		<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23
<input type="checkbox"/> Check if a jury trial is demanded in complaint		Demand \$
Other Relief Sought		

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BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR	Joseph Robert Guernsey	
BANKRUPTCY CASE NO. 08-02004-DD		
DISTRICT IN WHICH CASE IS PENDING	DIVISION OFFICE	NAME OF JUDGE
South Carolina		David Duncan
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING		DIVISION OFFICE
NAME OF JUDGE		
SIGNATURE OF ATTORNEY (OR PLAINTIFF)		
		
DATE	PRINT NAME OF ATTORNEY (OR PLAINTIFF)	
12/15/10	Michael H. Conrady	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

UNITED STATES BANKRUPTCY COURT

DISTRICT OF SOUTH CAROLINA

IN RE:)
)
)
) B/K Case No. 08-02004-DD
JOSEPH ROBERT GUERNSEY)
) Chapter 7
)
Debtor.)
)
KEVIN CAMPBELL, TRUSTEE) Adversary Proceeding
) No. 10-
)
Plaintiff,)
)
v.) COMPLAINT
)
UNITED STATES OF AMERICA)
)
Defendant.)
)

The Plaintiff, Kevin Campbell, Trustee, complaining of the Defendant the United States of America would respectfully show unto this Honorable Court that:

1. Joseph Robert Guernsey, hereinafter referred to as the "Debtor", filed for Chapter 7 relief on April 4, 2008.
2. Kevin Campbell, hereinafter referred to as the "Plaintiff", is the duly appointed, qualified, and acting Trustee in the above-captioned Chapter 7 case.
3. On information and belief, the Defendant the United States of America, through the Department of the Treasury, and more specifically, the Internal Revenue Service (hereinafter collectively referred to as the "Defendant"), is a governmental agency organized and existing pursuant to the laws of the United States, and is empowered to assess and collect taxes on behalf of the United States of America, and is a creditor in this case.

4. This Court has jurisdiction over the within action, pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157, and this is a core proceeding as defined under 28 U.S.C. § 157.

5. This is an action seeking the turnover of property of the estate pursuant to 11 U.S.C. §542.

FACTS

5. On April 1, 2010, the Plaintiff submitted to the Defendant 2005 and 2006 Form 1040X, Application for Tentative Refund for calendar years 2005 and 2006.

6. As indicated on those returns, the Plaintiff requested refunds from carrying a loss from 2006 back to December 31, 2005 and December 31, 2006.

7. As indicated on those returns, the requested refund amounts are \$5,271.00 for tax year 2005 and \$17,033.00 for tax year 2006.

8. Despite repeated demands, and numerous phone calls and letters with representatives for the Defendant, the tax refunds have not been turned over to the Plaintiff.

AS A FIRST CAUSE OF ACTION
(Turnover of Property of the Estate pursuant to 11 U.S.C. §542)

9. The Plaintiff incorporates by reference paragraphs one (1) through nine (9) as if repeating each herein verbatim.

10. The tax refunds for tax years 2005 and 2006 are property of the bankruptcy estate and are not of inconsequential value or benefit to the estate.

11. The Defendant has possession of the tax refunds and has actual notice and actual knowledge of the filing of this bankruptcy case.

12. The Plaintiff has made a demand upon the Defendant for the return of the

tax refunds, but they have not been returned.

13. The Plaintiff is entitled to an Order requiring the Defendant to turnover the tax refunds pursuant to 11 U.S.C. §542.

WHEREFORE, the Plaintiff hereby requests that this Court issue an Order requiring that the Defendant immediately turn over the tax refunds to the Plaintiff; and for such other and further relief this Court deems just and equitable.

Respectfully submitted,

CAMPBELL LAW FIRM, P.A.

/s/ Michael H. Conrady
MICHAEL H. CONRADY
Attorney for Trustee/Plaintiff
Post Office Box 684
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(843) 884-6874 /884-0997 (fax)
District Court I.D. No. 5560

Mt. Pleasant, South Carolina
This 15th day of December, 2010.